

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 831 of 1995

to

CIVIL REVISION APPLICATION No 836 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

VANIA BHUPATLAL CHANDULAL

Versus

KIRITKUMAR M THAKKAR

Appearance: (In all the civil revision applications)

MR SANDEEP N BHATT for Petitioner

None present for Respondents

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 18/11/1999

ORAL JUDGEMENT

1. All these matters arise from one and the same motor accident claim made against the owner of the two trucks and their insurance companies. The applications were filed by the claimants in the respective claims for

grant to them the compensation on the principle of 'no fault liability' as provided under section 140 of the Motor Vehicles Act, 1988. The applications came to be rejected against the respondents i.e. the owner of the truck, its insurance company and the insurance company of the jeep. It was granted only against the owner of the jeep. Hence, these civil revision applications before this court.

2. Learned counsel for the petitioners raised manifold contentions in these civil revision applications but for the order which I propose to pass in these civil revision applications I do not consider it to be necessary to refer any of the contentions and decide the same.

3. The accident was there on 28th August, 1990 and the claim applications have been filed by the petitioners in the year 1991. Learned counsel for the petitioners states that the claim applications have not been decided so far finally. It is really shocking that the claim applications which have been filed in the year 1991 are still pending in the matter where compensation has been claimed for injury or death, as the case may be, sustained in the accident. These matters are to be expeditiously decided. This is only an interim compensation which is always subject to adjustment in the compensation awarded in the final award, if any, made in favour of the claimants. At this stage, I do not consider it to be necessary to decided all these questions.

4. I find sufficient merits in the contention of the learned counsel for the petitioners that at this stage of dealing with the applications filed by the claimants for awarding of the compensation on the principle of 'no fault liability' the matter should have been finally decided qua the liability of the owner of truck as well as the insurance company and the insurance company of the jeep. This is not the stage where any final decision has to be given. Otherwise also, whatever decision is given for the purpose of deciding the claim of the claimants on the principle of 'no fault liability' is only provisional or tentative which is to be taken for the decision to be given in the matter on this claim i.e. on no fault liability. It is open to the petitioners to prove their case and entitlement against these persons also in the main proceedings.

5. In view of these facts, these civil revision applications are disposed of in the terms that it is open

to the petitioners to raise these issues of their claim and entitlement of the compensation against the owner of the truck its insurance company and the insurance company of the jeep in the main proceedings. While deciding the main proceedings, the Tribunal will not be influenced by the findings given by it in the impugned order which is only tentative and provisional findings for the purpose of deciding the claim of the petitioners for compensation on the principle of 'no fault liability'. The Tribunal is directed to decide the claim applications within a period of four months from the date of receipt of writ of this order. The civil revision applications and Rule therein stand disposed of accordingly with no order as to costs.

zgs/-